IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE N.V. RAMANA

WRIT PETITION NO : 7817 of 1995

Between:

1 B. Keshava Rao, S/o Bhim Rao,
R/o 62/A, S.P. Road, Secunderabad.
2 J. Yeshwanth Rao, s/o J. Ramachander Rao, Plot No.7,
Madupala Enclave, BHEL Colony, Secunderabad.
3 K. Jagannatha Rao, s/o Mohan Rao, R/o Plot No.26,
Madhupala Enclave, BHEL Colony, Secunderabad.
4 G. Sarojini, w/o Venkateshwara Rao, R/o Plot No.4,
Madupala Enclave BHEL Colony, Secunderabad.
5 J. Srikumari, w/o Purnachander, R/o Plot No.7,
Madupala Enclave BHEL Colony, Secunderabad.
6 Uppala Srinivas, s/o Ramachander Rao, R/o Plot No.7,
Madupala Enclave BHEL Colony, Secunderabad.
7 A.D. Lawrence Sagyaraj, S/o A. Devadoss, R/o Plot No.7,
Madupala Enclave BHEL Colony, Secunderabad.

..... PETITIONER(S)

AND

1 The District Collector, Hyderabad.
2 The Mandal Revenu Officer, Secunderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other writ order or direction, directing the respondents not to evict the petitioners in pursuance to the Notice in No. C/1072/93 dt. 4.6.94.

For the Petitioners: MR. R. NARASIMHA REDDY, Advocate

For the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

In this writ petition, the petitioners seek a direction to the respondents not to evict them from their plots in pursuance of the notice, dated 04-6-1994 issued by the second respondent under Section 7 of the A.P. Land Encroachment Act, 1905 (for short "the Act").

The petitioners claim to have purchased the plots bearing Nos.25, 26, 28 to 32 respectively in survey No.149 of Tokatta village, Secunderabad Mandal under registered sale deeds in the year 1992. They constructed houses thereon as per the plan sanctioned by the Cantonment Board, Secunderabad. While so, the second respondent issued the impugned notice under Section 7 of the Act asking the petitioners to show cause why they should not be evicted from the plots, as they are in unauthorized occupation of Ac.1-10 guntas of Government land in survey No.157/1 of Tokatta village. The petitioners state that the plots purchased by them under the registered sale deeds, do not fall in survey No.157/1 and they form part of survey No.149. According to them, they submitted a representation to the first respondent-District Collector to get the land surveyed and if the land under their occupation falls in survey No.157/1, the same be assigned in their favour at the market price fixed by the Government. Apprehending dispossession, the petitioners filed the present writ petition.

On 19-4-1995, the writ petition was admitted and interim stay was granted in W.P.M.P. No.9682 of 1995.

Having received the notice, the second respondent-Mandal Revenue Officer, on behalf of the respondents, filed counter-affidavit, denying the allegations made in the affidavit filed in support of the writ petition. It is stated that the land in survey No.157/1 of Thokatta village of erstwhile Secunderabad Mandal now Trimulgherry Mandal, Hyderabad District admeasuring Ac.153.14 guntas is classified as Government land as per the pahani for the year 1951-52. Subsequently, as per supplementary Sethwar, the survey No.157/1 was subdivided into 157/1, 157/9, 157/10 and 157/11. The land to an extent of Ac.1-10 guntas, which is now under the occupation of the petitioners, falls in survey No.157/10, and out of it, an extent of 1990 square yards was handed over to the Social Welfare Department for

construction of hostels. It is also stated that the owner of land in survey No.149 laid out plots encroaching the adjacent Government land in survey No.157/10 to an extent of 5563 square yards and sold out the same to different persons showing the encroached portion of the Government land as part of the land in survey No.149. When the purchasers of the said plots started construction activities, notices under Section 7 of the Act were issued to them, and they made representation to the District Collector, Hyderabad, seeking regularation of the land under their occupation. It is stated that since the land under the occupation of the petitioners was already handed over to Social Welfare Department for construction of hostels, their request for regularization thereof could not be considered. The second respondent states that the petitioners have not submitted their explanation to the impugned notice nor did they avail the remedies provided under the Act. According to the second respondent, the writ petition is premature and is devoid of merits. Thus, he prays to dismiss the writ petition, and to vacate the interim orders passed in W.P.M.P. No.9682 of 1995, dated
19-04-1995.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

The writ petitioners denied that they are encroachers. They made a request to the first respondent to conduct survey of the lands in question to ascertain whether the land under their occupation is Government land or not. But, either in the counter-affidavit or at the time of the arguments, no mention is made whether the lands have been surveyed or not. That apart, as per the counter-affidavit filed by the second respondent, no explanation is submitted by the petitioners to the impugned notice, which is in the nature of show-cause notice. In that view of the matter and considering the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition in the following terms:

The petitioners are at liberty to file their explanation to the impugned notice, dated 04-06-1994 issued by the second respondent, and on such filing, the respondents, after conducting survey of the lands in question, shall pass appropriate orders thereon in accordance with law. Till passing of such orders, the interim stay granted on 19-4-1995 in W.P.M.P. No.9682 of 1995 shall continue. No costs.

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N.V. RAMANA, J

Date: 06-08-2004

Svv

To

1 The District Collector, Hyderabad.
2 The Mandal Revenu Officer, Secunderabad.

3 Two CCs. to the Government Pleader for Revenue, High Court Buildings, A.P., Hyderabad. (OUT).

4 Two CD copies.